IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of

HERMON-TAYLOR et al

Serial No. 09/091,538

Filed: September 16, 1998

Atty. Ref.: 117-260

Group: 1645

#11 12/17/99 T. Gray

Examiner: Allen, M. P.

For: NOVEL POLYNUCLEOTIDES AND POLYPEPTIDES IN PATHOGENIC MYCOBACTERIA AND THEIR USE AS DIAGNOSTICS, VACCINES AND TARGETS FOR CHEMOTHERAPY

Monday, December 13, 1999

Assistant Commissioner for Patents
Washington, DC 20231

RESPONSE

Sir:

Responsive to the Office Action dated November 12, 1999, the applicants elect, with traverse, Group I, claims 1-3 and 16-17, for further prosecution in the above.

Reconsideration and withdrawal of the restriction requirement are requested in view of the following comments. The applicants respectfully submit the claims are directed to a single inventive concept under PCT Rule 13.1. Specifically, the claimed invention relates to polynucleotides and polypeptides encoded by the same, from pathogenic mycobacteria and their use as diagnostics, vaccines and targets for chemotherapy. The protein and DNA of the claimed invention are linked, as recognized by MPEP §1893.03(d) and Example 17 of page AI-43 of the MPEP. Antibodies of the claimed invention (Group III) are linked by the same technical features as the DNA and protein as the production of the antibodies is provided for by the polypeptides and DNA. The antibody-protein association is similar to the recognized key/lock example of unity exemplified in the MPEP. See, Example 8 in appendix AI (paage AI-41). The cells and vaccines of Group VII are similarly related as products containing or producing the Group I and

II compounds. The methods of using the claimed products, Groups VI and VI, are similarly so linked and should be examined with all the claims.

The applicants note the Examiner's comment regarding an alleged lack of PCT Rule 13 to "provide for multiple products or methods within a single application." See, page 3 of the Office Action facsimiled to the undersigned on November 24, 1999. The Examiner is requested to specifically indicate where the Law, Rules or MPEP prohibit the inclusion of multiple products or methods within a single application, in the event the restriction requirement is maintained.

The restriction requirement should be withdrawn.

At a minimum, the Examiner is requested to rejoin method claims once allowable product claims are found, and allow the applicants the time and opportunity to amend any method claims to be of corresponding scope with allowed product claims, pursuant to the Commissioner's Notice which appeared at 1184 OG 86 (March 26, 1996), as well as the suupplemental materials issued by the Patent Office.

Withdrawal of the restriction requirement and examination of all the pending claims are requested.

Respectfully submitted,

NIXON & VANDERHYE P.C.

By: _____

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Title: NOVEL POLYNUCLEOTIDES AND POLYPEPTIDES IN PATHOGENIC MYCOBACTERIA AND THEIR USE AS DIAGNOSTICS, VACCINES AND TARGETS FOR CHEMOTHERAPY

Atty Dkt. 117-260
C#/M#
Group Art Unit: 1645
Examiner: Allen, M. P.
Date: December 13, 1999

Assistant Commissioner for Patents
Washington, DC 20231

Sir:

RESPONSE/AMENDMENT/LETTER

This is a response/amendment/letter in the above-identified application and includes an attachment which is hereby incorporated by reference and the signature below serves as the signature to the attachment in the absence of any other signature thereon.

Fees are attached as calculated below:

Total effective claims after amendment **0** minus highest number previously paid for **20** (at least 20) = **0** x $ 18.00	$	0.00
Independent claims after amendment **0** minus highest number previously paid for **3** (at least 3) = **0** x $ 78.00	$	0.00
If proper multiple dependent claims now added for first time, add $260.00 (ignore improper)	$	0.00
Petition is hereby made to extend the current due date so as to cover the filing date of this paper and attachment(s) ($110.00 /1 month; $380.00/2 months; $870.00/3 months)	$	0.00
Terminal disclaimer enclosed, add $110.00	$	0.00
First submission after Final Rejection pursuant to 37 CFR 1.129(a) ($760.00)	$	0.00
Second submission after Final Rejection pursuant to 37 CFR 1.129(a) ($760.00)	$	0.00
☐ Please enter the previously unentered filed		
SUBTOTAL	$	**0.00**
If "small entity," then enter half (1/2) of subtotal and subtract ☐ Statement filed herewith	-$	0.00
Rule 56 Information Disclosure Statement Filing Fee ($240.00)	$	0.00
Assignment Recording Fee ($40.00)	$	0.00
TOTAL FEE ENCLOSED	$	**0.00**

The Commissioner is hereby authorized to charge any deficiency in the fee(s) filed, or asserted to be filed, or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our **Account No. 14-1140.** A duplicate copy of this sheet is attached.

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By Atty: B.J. Sadoff, Reg. No. 36,663

Signature: